

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

JIMMIE LEWIS,)	
)	
Plaintiff,)	C.A. No.: 04-1350 (GMS)
)	
v.)	
)	
SYLVIA FOSTER, LANCE SAPERS,)	
DAVE MOFFITT, R. GRAY,)	
MR. JOHNSON, JOHN JOE,)	
)	
Defendants.)	

**DEFENDANT DR. SYLVIA FOSTER'S RESPONSE TO PLAINTIFF'S
MOTION FOR ORDER COMPELLING DISCOVERY PURSUANT TO RULE 37**

COME NOW, Defendant, Dr. Sylvia Foster, by and through her undersigned counsel and responds to Plaintiff's Motion for Order Compelling Discovery Pursuant to Rule 37, and is support thereof, avers the following:

1. Plaintiff, Jimmie Lewis, filed the present Motion on December 20, 2006 requesting responses to Motions II, III, IV, V, VI and VII which were previously filed.
2. The Order signed by the Honorable Judge Sleet of September 27, 2006 specifically reads, "Defendants shall respond to interrogatories and request for admission *properly filed* by Plaintiff within the discovery period . . ." [emphasis added] Defendant, Dr. Sylvia Foster's position is to indicate the previous requests referenced in Plaintiff's most recent Motion for Order Compelling Discovery were not "properly filled". Therefore, Defendant contends a response to such requests is not warranted pursuant to the Court's Order of September 27, 2006.
3. Defendant, Dr. Sylvia Foster, filed a Motion for Protective Order on October 27, 2006 in response to the repeated requests by Plaintiff for discovery materials. The arguments

presented in said Motion for Protective Order are herein incorporated in this response in opposition to the Plaintiff's present Motion for Order Compelling Discovery. A copy of Defendant, Dr. Sylvia Foster's, Motion for Protective Order is attached hereto as Exhibit "A".

3. At this time, the Court has not ruled on the outstanding Motion for Protective Order. Until a ruling is made on said Motion, Defendant, Dr. Sylvia Foster's position is to refrain from responding to the inordinate amount of discovery requests which have been submitted by Plaintiff in this case. In the event the Court rules responses are necessary from Defendant, Dr. Sylvia Foster, then efforts will be undertaken to abide by the ruling of the Court.

Therefore, in light of the arguments submitted above and responses thereto, Defendant, Dr. Sylvia Foster, respectfully requests this Honorable Court to deny the Motion for Order Compelling Discovery filed by Plaintiff.

RESPECTFULLY SUBMITTED,

REGER RIZZO KAVULICH & DARNALL LLP

/s/ Louis J. Rizzo, Jr.

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Dated: 12-29-2006

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Defendants.)	

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify on this 29th day of December, 2006 that a true and correct copy of Defendant Dr. Sylvia Foster's Response to Plaintiff's Motion for Order Compelling Discovery Pursuant to Rule 37 has been served electronically and/or by first class mail, postage prepaid, to the following:

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Dated: 12-29-2006